

REMARKS

The Office Action mailed December 16, 2004 has been carefully reviewed and, in view of the above amendments and following remarks, reconsideration and allowance of the application are respectfully requested.

I. Summary of Claims

Claims 1-25, 28-55, 57, 59-63, and 66-78 are currently pending in the application, with claims 1, 23, 40, 57, 63, and 72 being independent claims. Claims 26-27, 56, 58, and 64-65 are cancelled; claims 72-78 are added; and claims 1, 23, 40, 45, 47, 57, 59, 63, and 67-68 are amended, in accordance with the above amendments.

The following claim rejections were submitted by the Examiner in the outstanding Office Action:

- Claims 1, 6, 8-10, 12-14, 16-22, and 63-71 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 5,704,137 to Dean, et al.;
- Claims 23, 25, 27, 29, 30-39, and 63-71 are rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent Number 6,457,262 to Swigart;
- Claims 1-4, 6-25, 27-41, and 44-71 are rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Swigart and either of U.S. Patent Application 2002/0013967 to Roux or U.S. Patent Number 4,698,864 to Graebe; and
- Claims 1-4, 6-14, 16-27, 29-41, 44-57, and 59-71 are rejected under 35 U.S.C. §103(a) as being unpatentable over the combination of Swigart and either of Dean or U.S. Patent Number 5,545,463 to Schmidt, et al.

In addition, the Examiner objected to claims 45, 59, and 63-71 under 35 U.S.C. §112, second paragraph, as being indefinite.

II. Discussion of Objections

Claims 45 and 59 are amended to overcome the objection under 35 U.S.C. §112, second paragraph.

With regard to claims 63-71, the Office Action states that the term "parting line" is vague and indefinite. The Applicants respectfully refer the Examiner's attention to paragraph 81 of the

application. A parting line is a structural feature of an object that is formed through a blow molding operation, for example. In a blow molding operation, the mold compresses opposite sides of a parison together and forms a bond between the opposite sides. The bond represents the parting line and corresponds with the area where the opposite portions of the mold meet. Accordingly, a parting line is an established feature of objects formed through a blow molding operation, for example.

Based upon the above discussion, the Applicants respectfully request that the Examiner withdraw the objections to claims 45, 59, and 63-71.

III. Discussion of Amendments

The various claims pending in the application prior to this Amendment were rejected over Dean, Swigart, and combinations of Swigart and one of Roux, Graebe, Dean, and Schmidt. The Applicants respectfully traverse these rejections. In order to expedite the prosecution of this matter, however, the Applicants have amended selected claims in accordance with the above amendments. Accordingly, the Applicants do not intend these amendments to irretrievably dedicate subject matter to the public, and the Applicants expressly reserve the right to (a) add claims of a scope commensurate with the original claims or (b) file one or more continuation applications with claims of a scope commensurate with the original claims, for example.

IV. Discussion of Rejections

Discussion of Independent Claim 1

Independent claim 1 recites a sole structure of an article of footwear. The sole structure includes a fluid-filled chamber having a first surface, an opposite second surface, and a sidewall extending between the first surface and the second surface. The first surface and the second surface are devoid of internal connections that secure interior portions of the first surface to interior portions of the second surface. The sidewall is joined with the first surface and the second surface to seal the fluid within the chamber. The first surface, second surface, and sidewall define a plurality of lobes extending outward from a central area. The lobes are in fluid communication with the central area, and the lobes define spaces positioned between the lobes located adjacent to each other. A resilient material surrounds at least a portion of the chamber

and extends into the spaces. In addition, at least a portion of the lobes extend to a side surface of the sole structure and are exposed at the side surface.

Swigart and Dean disclose bladders located within soles of footwear. Neither Swigart nor Dean, however, discloses a configuration wherein lobes extend to a side surface and are exposed at the side surface. Similarly, Schmidt discloses portions of the chambers as being exposed on a lower surface of the footwear (see Figure 9), but none of the chambers extend to the sides. Additionally, there is no teaching that the chambers of Roux and Graebe would extend to sides of a sole structure if incorporated into Swigart.

Based upon the above discussion, the Applicants submit that independent claim 1 is allowable over the various rejections outlined in the Office Action. In addition, claims 2-4 and 6-22 should be allowable for at least the same reasons.

Discussion of Independent Claim 23

Independent claim 23 recites an article of footwear having an upper and a sole structure secured to the upper. The sole structure includes an air-filled chamber and a polymer foam material surrounding at least a portion of the chamber. The chamber is formed of a polymer material and has a first surface, an opposite second surface, and a sidewall extending between the first surface and the second surface. The sidewall is joined with the first surface and the second surface to seal the air within the chamber at an air pressure approximately equal to an ambient pressure of air surrounding the sole structure. The first surface, second surface, and sidewall define a plurality of lobes extending outward from a central area. The lobes are in fluid communication with the central area, and the lobes define spaces positioned between the lobes located adjacent to each other. At least one of the first surface and the second surface has a curved configuration extending inward to define a concave surface of the chamber. The polymer foam material extending into the spaces.

Independent claim 23 was amended to substantially incorporate the recitation of dependent claim 27 and additional matter. According to the rejections, dependent claim 27 was rejected over the combination of Swigart and either of Roux or Graebe. In addition, dependent claim 27 was rejected over the combination of Swigart and Dean or Schmidt. The following discussion will focus, therefore, upon these rejections.

None of the references disclose a chamber wherein one of the first surface and the second surface has a curved configuration extending inward to define a concave surface of the chamber. Based upon the various figures of Swigart and the associated description, Swigart appears to have generally planar surfaces. The surfaces of Roux and Graebe project outward and have, therefore, a convex configuration. Similarly, Dean discloses a convex configuration, as in Figures 4 and 7. Finally, the projections of Schmidt also project outward.

Based upon the above discussion, the Applicants submit that independent claim 23 is allowable over the various rejections outlined in the Office Action. In addition, claims 24-25 and 28-39 should be allowable for at least the same reasons.

Discussion of Independent Claims 40 and 72

Independent claim 40 recites an article of footwear having an upper and a sole structure secured to the upper. The sole structure incorporates a chamber having a first surface, an opposite second surface, and a sidewall extending between edges of the first surface and the second surface. The sidewall is joined with the first surface and the second surface, and the first surface and the second surface are devoid of internal connections that secure interior portions of the first surface to interior portions of the second surface. A fluid is sealed within the chamber at a pressure that is substantially equal to an ambient pressure of air surrounding the footwear. A plurality of lobes extend outward from a central area. The lobes are defined by the first surface, second surface, and sidewall, and the lobes are in fluid communication with the central area. The chamber is positioned in a heel region of the footwear and the lobes extend to a lateral surface and a medial surface of the sole structure, and distal ends of at least a portion of the lobes are exposed at the lateral surface and the medial surface. Similarly, independent claim 72 recites that a plurality of lobes extend radially outward from a central area of the chamber. The lobes extend to a lateral surface and a medial surface of the sole structure, and distal ends of at least a portion of the lobes are exposed at the lateral surface and the medial surface.

Swigart and Dean disclose bladders located within soles of footwear. Neither Swigart nor Dean, however, discloses a configuration wherein lobes extend to a lateral surface and a medial surface of the soles, and distal ends of at least a portion of the lobes are exposed at the lateral surface and the medial surface. Similarly, Schmidt discloses portions of the chambers as

being exposed on a lower surface of the footwear (see Figure 9), but none of the chambers extend to medial or lateral sides. Additionally, there is no teaching that the chambers of Roux and Graebe would extend to sides of the footwear if incorporated into Swigart.

Based upon the above discussion, the Applicants submit that independent claims 40 and 72 are allowable over the various rejections outlined in the Office Action. In addition, claims 41, 44-55, 73-78 should be allowable for at least the same reasons.

Discussion of Independent Claim 57

Independent claim 57 recites a bladder for an article of footwear. The bladder includes a first surface, an opposite second surface, and a sidewall extending between edges of the first surface and the second surface. The sidewall is joined with the first surface and the second surface, and the first surface and the second surface are devoid of internal connections that secure interior portions of the first surface to interior portions of the second surface. At least one of the first surface and the second surface has a curved configuration. Air sealed within the bladder at a pressure approximately equal to an ambient pressure. In addition, at least three lobes extend radially outward from a central area. The lobes are defined by the first surface, second surface, and sidewall, and the lobes are in fluid communication with the central area. Compressing the bladder increases a tension in at least the first surface.

Independent claim 57 was amended to substantially incorporate the recitation of dependent claim 58. According to the rejections, dependent claim 58 was rejected over the combination of Swigart and either of Roux or Graebe. The following discussion will focus, therefore, upon the combination of Swigart and either of Roux or Graebe.

Swigart discloses an article of footwear that incorporates a bladder. Roux and Graebe disclose cushions that include a plurality of cells having various shapes. According to the rejection, it would be obvious to form a bladder as taught by Roux and Graebe in the device of Swigart. Independent claim 57 recites that the sidewall is joined with the first surface and the second surface to seal the fluid within the chamber. Accordingly, the chamber recited by independent claim 57 is effectively sealed. Individual cells in Roux and Graebe, however, are not sealed. More particularly, the various cells in the mattresses of Roux and Graebe are in fluid communication such that the fluid may travel from one cell to another. According to Roux,

"These cells are interconnected at their base in order to create a single volume of fluid which fills all the cells" (Roux, paragraph 0001, lines 3-5). Similarly, Graebe states that "the interiors of the cells 4 in the zone 10 are in communication with each other but not with respect to the cells 6 and 8 of the zones 12 and 14, and this holds true for the cells 6 of the zone 12 and the cells 8 of the zone 14, so that the cells 4, 6 and 8 within each zone 10, 12 and 14 exist at a uniform pressure which may, and most likely does, vary from zone to zone" (Graebe, column 2, lines 54-61). In contrast with independent claim 57, therefore, Roux and Graebe do not disclose sealed cells.

As another matter, independent claim 57 recites a specific combination of features. Obviousness cannot be established, however, by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion, or incentive supporting the combination. The rejection of independent claim 57 does not present a line of reasoning as to why an artisan reviewing only the collective teachings of the references would have found it obvious to selectively pick and choose various concepts from the references to arrive at the claimed invention. Instead, the rejection has done little more than cite references to show that various concepts, when each is viewed in a vacuum, are known. The claimed invention, however, is clearly directed to a combination of concepts (e.g., footwear, a chamber having a particular shape, and a resilient material around the chamber). That is to say, the Applicants have presented claims to an invention that is a new combination of concepts. The rejection, however, does not demonstrate why it would be obvious to combine these particular concepts together.

The mattresses of Roux and Graebe disclose a plurality of cells that are connected by a common base, but are otherwise free to move. In addition, the various cells in the mattresses of Roux and Graebe are in fluid communication such that the fluid may travel from one cell to another. In order to incorporate the cells of Roux and Graebe into Swigart to arrive at the claimed invention, both of these aspects of Roux and Graebe would be modified. These aspects of Roux and Graebe provide in part, however, mattresses that are suitable for the uses outlined in Roux and Graebe.

Based upon the above discussion, the Applicants submit that independent claim 57 is allowable over the various rejections outlined in the Office Action. In addition, claims 59-62 should be allowable for at least the same reasons.

Discussion of Independent Claim 63

Independent claim 63 recites a bladder for an article of footwear. The bladder includes a first surface, an opposite second surface, and a parting line that forms a bond between material forming the first surface and material forming the second surface. The parting line is formed in a sidewall of the bladder, and the parting line extends from the first surface to the second surface in at least one portion of the bladder.

As discussed above, a parting line is a structural feature of an object that is formed through a blow molding operation, for example. In a blow molding operation, the mold compresses opposite sides of a parison together and forms a bond between the opposite sides. The bond represents the parting line and corresponds with the area where the opposite portions of the mold meet. None of the references cited in the Office Action discuss the location of a parting line. More particularly, none of the references teach or suggest a parting line that extends from the first surface to the second surface in at least one portion of a bladder.

Based upon the above discussion, the Applicants submit that independent claim 63 is allowable over the various rejections outlined in the Office Action. In addition, claims 66-71 should be allowable for at least the same reasons.

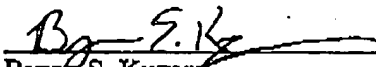
V. Conclusion

In view of the foregoing, the Applicants respectfully submit that all claims are in a condition for allowance. The Applicants respectfully request, therefore, that the rejections be withdrawn and that this application now be allowed.

This Amendment is being timely filed by facsimile transmission on February 18, 2005. Should additional fees or an extension of time be deemed necessary for consideration of this Amendment, such fees or extension are hereby requested and the Commissioner is authorized to charge deposit account number 19-0733 for the payment of the requisite fee. If anything further

is desirable to place the application in even better form for allowance, the Examiner is respectfully requested to telephone the undersigned representative at (503) 425-6800.

Respectfully submitted,

By: 
Byron S. Kuzara
Registration No. 51,255

Banner & Witcoff, Ltd.
1001 G Street, N.W.
Washington, D.C. 20001-4597
Telephone: (202) 824-3000

Dated: February 18, 2005